



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable C. J. Wilde
County Auditor
Nueces County
Corpus Christi, Texas

Dear Sir:

Opinion No. 0-3899

Re: Is Nueces County legally authorized to pay any long distance telephone calls contracted by the district judge through a telephone the service for which is paid by the county?

Your letter of August 23, 1941, requesting an opinion of this department upon the above stated question has been received.

We quote from your letter as follows:

"We quote Article 6820, Judicial District Expenses:

"All District Judges and district attorneys when engaged in the discharge of their official duties in any county in this State other than the county of their residence shall be allowed their actual and necessary expenses while actually engaged in the discharge of such duties not to exceed four dollars per day for hotel bills, and not to exceed twenty cents a mile when traveling by private conveyance, in going to and returning from the place where such duties are discharged, traveling by the nearest practical route. Such officers shall also receive the actual and nec-

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ecessary postage, telegraph and telephone expenses incurred by them in the actual discharge of their duties. Such expenses shall be paid by the State upon the sworn and itemized account of each district judge or attorney entitled thereto, showing such expenses. In district containing more than one county, such expenses shall never in any one year \$100.00 for each county in the district; provided that no district judge or attorney shall receive more than \$600.00 in any one year under the provisions of this article. The account or said services shall be recorded in the official minutes of the district court of the county in which such judge or attorney resides, respectively.'

"You will notice in the above articles that no reference is made direct to district judges acting in their official capacity in only one County. It does state in district containing more than one County such expenses shall never exceed in any one year \$100.00 for each county in the district.

"We would like to have your opinion on the above Article with reference as to whether the County is justified in paying any long distance calls contracted by the District Judge through a telephone, the service for which is paid by the County.

"You will notice in the Article it does state:

"Such officer shall also receive the actual and necessary postage, telegraph and telephone expenses in the actual discharge of their duties.'",

"however, as I understand the article, such expenses shall be reduced to writing and sworn statement forwarded to the State, which shall

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refund the amount to the District Judge or I presume to whoever makes payment of the account."

Section 2 of Article 3899b, Vernon's Annotated Civil Statutes, provides:

"Sec. 2. Suitable offices and stationery and blanks necessary in the performance of their duties may in the discretion of the Commissioners Court also be furnished to resident District Judges, resident District and County Attorneys, County Superintendents and County Surveyors, and may be paid for on order of the Commissioners Court out of the County Treasury."

The Commissioners' Court is authorized by the above quoted provision of Article 3899b to furnish to resident district judges suitable offices and stationery and blanks necessary in the performance of their duties. However, it is to be noted that this provision of the statute is not mandatory, but the matter is left wholly within the discretion of the Commissioners' Court. If the Commissioners' Court determines, within its discretion, that it will furnish suitable offices, etc., to resident district judges of the county, we think that the Commissioners' Court is authorized to install or have installed in such office or offices a telephone or telephones and pay the monthly rental thereon. However, we do not think that this statute is broad enough to authorize the Commissioners' Court to pay for long distance telephone calls contracted by the resident district judge or judges over these telephones or any other telephones.

It will be noted that all expenses authorized by Article 6820, supra, for district judges and district attorneys when engaged in the discharge of their official duties shall be paid by the State upon the sworn and itemized account of each district judge or attorney entitled thereto. This statute in no wise authorizes the Commissioners' Court to pay any of the expenses allowed therein out of the county funds.

We fail to find any statute authorizing the Commissioners' Court to pay the long distance telephone calls

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of a district judge, in any event, and in the absence of such statute we respectfully answer the above stated question in the negative.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED SEP 13, 1941

FIRST ASSISTANT
ATTORNEY GENERAL

By

Ardell Williams
Assistant

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